

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 18-18 (DWF/LIB)

Plaintiff,

v.

ORDER

Andre Mathis, Jr.,

Defendant.

Defendant Andre Mathis, Jr., has filed—for the second time—a motion for collateral relief from his sentence pursuant to 28 U.S.C. § 2255. *See* Doc. No. 276. That motion is now before the Court for review pursuant to Rule 4 of the Rules Governing Section 2255 Proceedings in the United States District Courts. As a result of that review, the Court concludes that Mathis’s motion is “second or successive” within the meaning of 28 U.S.C. §§ 2244(b) and 2255(h). *See* Doc. No. 268 (memorandum and opinion order denying prior motion under § 2255). Mathis therefore was required to procure authorization from the United States Court of Appeals for the Eighth Circuit before filing his motion. *See* 28 U.S.C. § 2255(h). Mathis has not procured that authorization from the Eighth Circuit—and because Mathis has not been granted authorization, the Court lacks jurisdiction to proceed to the merits of his § 2255 motion. *See Boykin v. United States*, 242 F.3d 373 (8th Cir. Oct. 30, 2000) (unpublished table disposition).

Accordingly, the motion is dismissed without prejudice for lack of jurisdiction. Because the Court does not believe that there is a good-faith basis upon which to appeal

the dismissal of the motion, Mathis will not be granted a certificate of appealability, *see* 28 U.S.C. § 2253(c), and will not be granted *in forma pauperis* status by this Court on appeal from this order, *see* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3).

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The motion under 28 U.S.C. § 2255 of Defendant Andre Mathis, Jr. (Doc. No. [276]) is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction.
2. No certificate of appealability will issue.
3. It is certified that any appeal from this order will be taken in the absence of good faith and that *in forma pauperis* status will not be granted for any appeal.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: November 13, 2024

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge